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09/622,204	10/24/2000	Johan Sjolholm	104-290P	8411

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EXAMINER

WEINSTEIN, STEVEN L

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/622204

Applicant(s)

STOHLUM

Examiner

S. WEINSTEIN

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 6/5/03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 14-50 is/are pending in the application.
- Of the above claim(s) 14-35 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 36-50 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36-41, 45 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wild (WO 89/12006) in view of Mead et al (3,186,625), Ikeda et al (4,454,979), Rutter et al (4,981,374) and Wild (EP 380107).

In regard to claim 36, Wild discloses a container capable of use for liquid or pulverulent contents comprising walls which are interconnected to form a closed compartment, two opposing side walls being joined along a common connecting position, a duct means (13) formed between the two side walls and extending to the out side of the container, the walls being flexible so that the volume of the compartment would be dependent on the relative position of the walls and the duct means having a uniform composition of materials along its entire length. Claim 1 also recites that the duct means is sealed with a first terminal edge "when" the container is in an empty state and claim 1 also recites a "whereby" clause. For examination purposes, the recitation that the duct means is sealed when in an empty state is being construed as a capability of the container. That is, the duct means is capable of being sealed when the container is empty. Stated somewhat differently, it can be sealed empty or be left open when empty. Similarly for the "whereby" clause. That is, the container is capable of being sealed after filling. Note, too, the phrase that the duct means extends to the outside of the container can be interpreted that the duct means is open to the space outside the

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container, that it extends past the compartment or it extends past the general outline of the container. Any of these interpretations of the language is reasonable. With this analysis as a background, Wild ('006) has a duct means (the spout that opens to the outside of the container, extends beyond the general perimeter of the container and is capable of being sealed with a first terminal edge when the container is empty before filling and wherein the container would be capable of having the first terminal removed, filled and sealed by a new terminal edge. Support for these capabilities is: the shape of the container itself in Wild ('006) as well as the fact that Mead et al discloses it was well established to provide a duct means (30) with a seal which is capable of being removed for filling the container and then sealed by a new terminal edge; Ikeda et al further discloses sealed duct means with a removable pouch (and that the duct means is for filling and dispensing); and Rutter et al discloses a sealed duct means on an empty container which is opened for filling and resealed. Thus, the art, taken as a whole would fairly teach it would have been obvious to impart to the duct means of Wild ('006) the recited capabilities even if those capabilities were not inherent in Wild ('006). Wild ('107) is relied on as further evidence of bags with duct means and sealing capability. In regard to claim 37, Rutter teaches aseptic packaging and thus sterile conditions. In regard to claims 38-40, the art taken as a whole including Wild ('006), Mead et al, Ikeda et al and Rutter et al disclose sealable duct means of the same material as the container walls. In regard to claim 41, at the minimum, both Rutter et al and Mead et al disclose a flat sealed, empty bag and to modify Wild ('006) if indeed Wild ('006) does

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not already teach a flat, sealed, empty bag, would have been obvious in view of the art taken as a whole.

Claims 42, 43 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 36 above, and further in view of Ostendorf (EP 524487).

Wild ('006) teaches the conventionality of carrying means and interconnected bottom walls. Ostendorf is relied on as in the last Office action to further evidence the fact that carrying means and interconnected bottom walls are conventional.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 43 above, and further in view of Saito et al (EP 539,800).

As noted in the last Office action, both Wild ('006) and Wild ('107) and Saito evidence the fact it was notoriously conventional to provide boundary lines that are arched in association with duct means.

Claims 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 36 above, and further in view of Buchaman et al (WO 98/00286), Jensen et al (4,023,607), Aesbach et al (WO 95/31329), Spies (3,604,491) and Toyoshima (Jp 3-289451) for the reasons given in the Office action mailed 3/5/03, paper no. 10.

All of applicants remarks filed 6/5/03, paper no. 11 have been fully and carefully considered but are considered to be moot in view of the current rejection. The issue of what is outside the container has been addressed above.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is 703-308-0650. The examiner can generally be reached on Monday-Friday 7:00am to 3:30 pm.

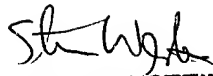
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone number for the organization where this application assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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S. Weinstein/mn
September 3, 2003


STEVE WEINSTEIN
PRIMARY EXAMINER 9/5/03
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